

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

ADIDAS AMERICA, INC., a Delaware  
Corporation, et al,

Plaintiffs,

v.

SKECHERS USA, INC., a Delaware  
corporation,

Defendant.

No. 3:15-cv-01741-HZ

OPINION & ORDER

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HERNÁNDEZ, District Judge:

In this trademark infringement case, the Court granted Plaintiff adidas's motion for preliminary injunction in February of this year. The Court's Preliminary Injunction Order addressed three Skechers shoes—the Cross Court TR, the Onix, and the Skechers Supernova—that adidas claimed were confusingly similar to adidas's registered trademarks and protectable trade dress. Adidas Am., Inc. v. Skechers USA, Inc., No. 3:15-CV-01741-HZ, 2016 WL 591760, at \*1–2 (D. Or. Feb. 12, 2016). The Court found that adidas was likely to succeed in showing that each of the three shoes infringed on adidas's rights. Id. at \*4–15.

Defendant Skechers now asks for clarification regarding two versions of the Cross Court TR, model numbers 51271 WNV and 51271 BBK. Def. Motion for Clarification at 2, ECF 91. Skechers maintains that these particular models are not within the scope of the Court's Order because they have a distinct, single-color appearance (either all-black or all-white) that

eliminates the possibility of post-sale confusion. Skechers also notes that adidas did not raise a specific challenge to these models in its motion or at the Court's preliminary injunction hearing.

After reviewing the parties' motions and exhibits, the Court finds that the Cross Court TR model numbers 51271 WNV and 51271 BBK are within the scope of the Court's preliminary injunction order. The Court's analysis of the likelihood of confusion between the Skechers Cross Court TR and adidas's Three-Stripe mark focused on the similarity of the shoes' design. See Adidas, 2016 WL 591760 at \*10 ("Similarly, the Skechers Cross Court TR shoe incorporates a three-striped design that is very similar in overall appearance to the adidas Three-Stripe mark. Skechers again points to minor distinctions—that its three stripes are of unequal thickness with rounded corners, and that the three stripes combine at one point to form a sideways letter "E." But those minor differences do not change the overall impression of similarity between the Skechers three-striped design and adidas's Three-Stripe mark."). Skechers motion for clarification and its accompanying exhibits make clear that all of the Cross Court TR models, including the model submitted to the Court for consideration and model numbers 51271 WNV and 51271 BBK, all incorporate the identical design. All of the Cross Court TR models, including model numbers 51271 WNV and 51271 BBK, are therefore within the scope of the Court's preliminary injunction order.

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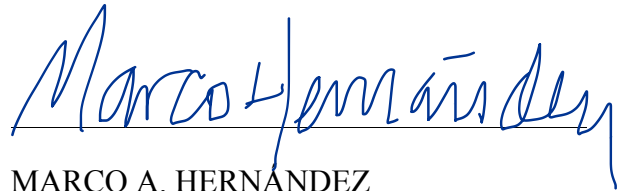
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ORDER

For the reasons stated, Defendant's motions for clarification [91] is DENIED. All Cross Court TR models including Skechers model 51271 WNV and model 51271 BBK shoes, are within the scope of the Court's preliminary injunction order.

Dated this 16 day of April, 2016.

A handwritten signature in blue ink, reading "Marco Hernandez", written over a horizontal line.

MARCO A. HERNANDEZ  
United States District Judge